



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 1885-99

24 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he be transferred to the Retired Reserve vice being discharged on 14 September 1996.

2. The Board, consisting of Mr. Pfeiffer, Ms. Hare and Ms. Davies, reviewed Petitioner's allegations of error and injustice on 23 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner reenlisted in the Marine Corps Reserve on 15 June 1994 and subsequently extended that enlistment for three months. On 1 January 1995 he was promoted to MSGT (E-8). The record shows that he was credited with 82 retirement points in the anniversary year ending 11 May 1995 and 98 retirement points in the anniversary year ending 11 May 1996. He was honorably discharged on 14 September 1996 at the expiration of his enlistment, as extended. The Career Retirement Credit Report (CRCR) shows that he has completed 21 years of qualifying service for reserve retirement. The CRCR also shows that during the period from 12 May 1996 until his discharge on 14 September 1996, he was credited with 12 drill points and five membership points.

d. Petitioner states that he thought his retirement would be automatic at the end of his enlistment since he had completed over 20 years of qualifying service.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended favorable action in similar cases when an individual was in good standing in the Marine Corps Reserve and there is no explanation in the record as to why an individual was discharged and not retired.

f. The Board is aware that the Uniform Retirement Date Act 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

g. The Board is also aware that regulations require that in order to retire in the grade held at the time of retirement, the individual must complete two years of qualifying in that grade. As indicated, Petitioner's qualifying service after being promoted is from 1 January 1995 to 11 May 1996, a period of almost 17 months. In order to retire as a MSGT, Petitioner would need service until 31 December 1996. Thirty-three retirement points are required to make the 234 days from 12 May to 31 December 1996 qualifying for retirement. As indicated, Petitioner already has 12 retirement points from drills performed during this period. If he has status in the Marine Corps Reserve through 31 December 1996, he can be credited with 10 membership points, for a total of 22 retirement points.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it. The Board also believes that if he had been properly advised, he would have extended his enlistment for four months so that he would have two years of service after being promoted to MSGT, and he would have earned the required number of retirement points. Accordingly, the Board concludes that he should be transferred to the Retired Reserve in the grade of MSGT.

Therefore, the record should be corrected to show that Petitioner extended his enlistment for an additional period of four months. In addition, sufficient retirement points should be transferred from the excess over 50 in preceding anniversary years into the anniversary year beginning on 12 May 1996 to make the period to 31 December 1996 qualifying for retirement. This is believed to be 11 retirement points, but additional points should be

transferred if necessary. Further, given the requirements of the Uniform Retirement Date Act he should be transferred to the Retired Reserve on 31 December 1996.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:


- a. That Petitioner's record be corrected to show that he extended his enlistment for an additional period of four months, to expire on 14 Jan 1997, and that sufficient retirement points be transferred from preceding anniversary years to make the period from 12 May 1996 to 31 December 1996 qualifying for retirement.
- b. That Petitioner's naval record be further corrected to show that he transferred to the Retired Reserve on 31 December 1996 in the grade of MSGT vice being discharged on 14 September 1996.
- c. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director